



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE LEGAL  
MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER  
PRESIDENT**

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules  
of Procedure 2017 ("the Procedural Rules")

in connection with

**Flat 7, 96 Buccleuch Street, Glasgow, G3 6DY (the property)**

Case reference FTS/HPC/PR/22/2072

**Parties**

**Miss Sarah Whear (Applicant)**

**Mrs Elizabeth Brown (Respondent)**

1. On 27 June 2022 the First-tier Tribunal for Scotland, Housing and Property Chamber (the FTT) received the application from the Applicant. The application was made under Rule 103 of the Rules of Procedure. The application gave no information about the end of the tenancy and was directed against the respondent only. The application gives the information that the address of the property is different from the Applicant's current address stated as her details on the form and she states that the deposit for her and her flat mate had already be returned after they moved out. No

tenancy agreement was attached, no explanation given as to why only the Applicant made the application and not both she and her former flat mate and the information provided about the tenancy agreement did not disclose the start and end date, rent, deposit sum, landlord identity.

2. On 29 June, 19 July and 8 August 2022 the FTT wrote to the Applicant requesting clarification about the end date of the tenancy and requested further information about the tenancy agreement. The Applicant was advised that if no reply was forthcoming the application may be rejected. No reply was forthcoming.
3. All documents are referred to for their terms and held to be incorporated herein.

## **B DECISION**

1. I considered the application in terms of Rule 8 of the Procedural Rules. That Rule provides:-

*"Rejection of application*

*8.—(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if –*

*(a) they consider that the application is frivolous or vexatious;*

*(b) the dispute to which the application relates has been resolved;*

*(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(d) they consider that the application is being made for a purpose other than a purpose specified in the application; or*

*(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.*

*(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."*

- 2. After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.**

## **C RELEVANT LEGISLATION**

The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

**103.** Where a tenant or former tenant makes an application under regulation 9 ( First-tier Tribunal orders]) of the 2011 Regulations, the application must—

(a) state—

(i) the name and address of the tenant or former tenant;

(ii) the name, address and profession of any representative of the tenant or former tenant; and

(iii) the name, address and registration number (if any) of the landlord;

(b) be accompanied by a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the tenant or former tenant can give;

(c) evidence of the date of the end of the tenancy (if available); and

(d) be signed and dated by the tenant or former tenant or a representative of the tenant or former tenant.

Requirements for making an application

5.—(1) An application is held to have been made (on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate.

(2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgement have been met.

(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber

President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the required manner for lodgement. ....

#### Regulation 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011

Court orders

10. If satisfied that the landlord did not comply with any duty in regulation 3 the First-tier Tribunal —

(a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit; and

(b) may, as the First-tier Tribunal considers appropriate in the circumstances of the application, order the landlord to—

(i) pay the tenancy deposit to an approved scheme; or

(ii) provide the tenant with the information required under regulation 42.

#### **D REASONS FOR DECISION**

1. The application does not meet the lodging requirement stated in rule 103 (b) and (c) as the Applicant has not provided the tenancy agreement or sufficient information about his and has not provided the end date of the tenancy although it is clear from the application information that she now resides at a different address and she has explicitly stated that she has moved out.
2. The Applicant failed to provide documentation and information which is required in terms of Rule 103 (b) and (c) despite having been given the opportunity to do so on 3 occasions. She has not replied to the FTT's requests for further information despite the FTT having advised her explicitly of the possibility that the application may be rejected in those circumstances.
3. For the above reasons the application has not been competently made and thus it would not be appropriate for the FTT to accept it.

#### **What you should do now**

**If you accept the Legal Member's decision, there is no need to reply.**

**If you disagree with this decision:-**

**An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them. Information about the appeal procedure can be forwarded to you on request.**

P Hennig-McFatridge

Petra Hennig McFatridge  
Legal Member  
17 August 2022